

TWENTY-EIGHTH DAY.

Senate Chamber,
Austin, Texas,
Thursday, Feb. 17, 1921.

The Senate met at 10 o'clock a. m. pursuant to adjournment and was called to order by Lieutenant Governor Lynch Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	McNealus.
Baugh.	Murphy.
Bledsoe.	Page.
Carlock.	Parr.
Cousins.	Richards.
Davidson.	Rogers.
Dudley.	Suiter.
Fairchild.	Watts.
Floyd.	Witt.
Hall.	Wood.
Harp.	Woods.
Lewis.	

Absent.

Buchanan.	Russell.
Darwin.	

Absent—Excused.

Clark.	McMillin.
Dorough.	Williams.
Hertzberg.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator McNealus.

Bills and Resolutions.

By Senator Dudley:

S. C. R. No. 18, a Concurrent Resolution directing the Board of Prison Commissioners to discontinue operation of the Texas State Railroad.

Whereas, the Texas State Railroad between Palestine and Rusk, and thirty-two (32) miles in length, has proven a constant expense to the State, and now represents a heavy aggregate loss, and it has been consistently and conclusively demonstrated that the road cannot be operated without loss; and

Whereas, the said railroad has been under the administration of the Board of Prison Commissioners since September 17, 1917, and the Third Called Session of the Thirty-sixth Legislature made an appropriation of \$70,000.00 from the general revenue to discharge indebtedness against the prop-

erty incurred prior to June 1, 1920; and also appropriated at the same time \$50,000.00 from the penitentiary funds, to be expended in supplementing the operating revenues of the said railroad, and which sum is now nearly exhausted; and

Whereas, by act of the Third Called Session of the Thirty-sixth Legislature the Board of Prison Commissioners were authorized to sell the said railroad in whole or to dismantle the property and sell it in parts, but under conditions which it has been impossible to comply with, viz., that no sale should be made unless a cash payment be secured sufficient to redeem the bonds and accrued interest of the said railroad held by the permanent public free school funds; and

Whereas, the Board of Prison Commissioners has recently submitted to the Governor and the Legislature an audit of the operating and maintenance expenses of the said State Railroad from September 17, 1917, to December 31, 1920, which shows a deficit over all revenues for the said period of \$159,378.66; and further stating that it will be impossible to operate the road except at a loss, and asking that the Legislature direct the Board respecting the continued operation of the road; therefore, be it

Resolved, by the Senate of Texas, the House of Representatives concurring, that the Board of Prison Commissioners is hereby authorized and directed to discontinue at once the operation of the Texas State Railroad extending between Palestine and Rusk.

The resolution was read and referred to the Committee on Public Debts, Claims and Accounts.

By Senator McNealus:

S. B. No. 266, A bill to be entitled "An Act providing for the construction, equipment and maintenance of a building in connection with the Texas School for the Blind, to accommodate, educate and take care of blind children or children with defective eye sight under the age of children which may be admitted into the Texas School for the Blind under the present laws; providing for the operation, support and maintenance of such addition to the Texas School for the Blind and making an appropriation for said purpose and purposes; and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senators Dudley and Page:

S. B. No. 267, A bill to be entitled "An Act to direct the Prison Commission to sell the Texas State Railway in whole or in part; to make an appropriation from the general revenue to redeem bonds with accrued interest, of the said railroad held by the permanent public free school fund against the railroad, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Parr:

S. B. No. 268, A bill to be entitled "An Act to validate the grants of land made by the Crown of Spain, to the original grantees and their heirs and assigns of Porciones Nos. 29, 30, 31, 33, 34, 36, 38, 47, 48, 53, 57, and 58, lying and being situated in Webb County, Texas, and to authorize the Commissioner of the General Land Office to insure patents to the original grantees, their heirs or assigns to said Porciones, and declaring an emergency."

Read first time and referred to Committee on Public Lands and Land Office.

By Senator Hall, by request.

S. B. No. 269, A bill to be entitled "An Act providing for increase of salary of county superintendents of public instruction of counties having 10,000 scholastics or more; for office and traveling expenses of such county superintendents; and for an office assistant who shall also act as county attendance officer and for the salary of such officer assistant; providing also of raising to the qualifications for eligibility to the office of county superintendent of public instruction in the said counties; repealing all laws in conflict with its provisions, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

Simple Resolution No. 51.

Be it Resolved, By the Senate that the House be requested to return to the Senate for further consideration S. B. No. 70. Signed:

Watts, Richards, Parr, Bledsoe, Suiter, Hall, Harp, Woods, McNealus, Floyd, Dudley, Davidson, Murphy.

The resolution was read and Senator

Carlock moved that the resolution be laid on the table subject to call.

The motion was lost.

Pending discussion, Senator Rogers made the point of order that the motion to recall the bill from the House came too late, citing Senate Rule No. 52 in support of the point of order.

The Chair overruled the point of order, citing Rule No. 64, and

Senator Rogers made a further point of order, contending that the resolution was out of order by reason of coming too late.

The Chair, after consideration, overruled the point of order.

Action recurred on the resolution and it was adopted by the following vote:

Yeas—14.

Bledsoe.	McNealus.
Cousins.	Murphy.
Davidson.	Parr.
Dudley.	Richards.
Fairchild.	Suiter.
Hall.	Watts.
Harp.	Woods.

Nays—8.

Bailey.	Page.
Baugh.	Rogers.
Carlock.	Witt.
Lewis.	Wood.

Absent.

Buchanan.	Floyd.
Darwin.	Russell.

Absent—Excused.

Clark.	McMillin.
Forough.	Williams.
Hertzberg.	

Senator Page here moved to take up H. C. R. No. 22, and recommit the same to Committee on Insurance and Banking.

The motion was adopted.

Proposed Substitute for Senate Bill No. 22.

Senator Carlock here secured unanimous consent to print in the Journal the following proposed substitute for Senate Bill No. 22.

Amend S. B. No. 22 by striking out the committee substitute and substitute the following bill in lieu thereof, to-wit:

A BILL
To Be Entitled

An Act to regulate the business of banking in this State when conducted by concerns operating under charters obtained in Texas prior to the adoption of the Constitution of 1876; to require the Commissioner of Banking and Insurance to make periodical examinations and reports of the condition of the affairs of such banks; to provide for the publication of such reports; to compel all such banks to submit to said examinations and reports; and to pay the expenses of same; to define what shall constitute violations of this Act and prescribing penalties for the same; to provide for the liquidation of all such banks when insolvent or about to become so; and prescribing the duties of the Attorney General as to taking steps to close up and force the liquidation of such banks in certain contingencies, and to forfeit the banking privileges of the charter of any bank so liquidated; to provide that no private banks shall employ or solicit deposits for use in speculative ventures owned or promoted by private bankers; making the same unlawful acts and prescribing penalties therefor, and to provide that no new private banks shall be permitted to operate in this State after the passage of this Act, and prescribing penalties for operating such banks after said date; repealing all laws in conflict herewith, and declaring an emergency.

Be it Enacted by the Legislature of the State of Texas:

Section 1. Every corporation now operating a banking business within this State, or which may hereafter operate a banking business within this State, under a charter authorized by the State of Texas prior to the adoption of the Constitution of 1876, shall be subject to periodical inspections at the hands of the Commissioner of Banking and Insurance of this State, at any time that he may deem it expedient to make an examination of the affairs of such bank. It shall also be the duty of such banking corporation, to cause each of the said reports of the said Commissioner of Banking and Insurance to be published in some newspaper of general circulation located in the town or city where the said bank

is located and to be designated by the said Commissioner. All expenses attendant upon the examination of such corporations, and the publication of said reports, shall be paid by the corporation examined upon the demand of the said Commissioner.

Sec. 2. Wilful failure, or refusal, on the part of any agent, or officer or officers in charge of a banking corporation such as is defined in Section 1 of this Act to permit the Commissioner of Banking and Insurance of this State, or any authorized representative of his department to make a complete and thorough examination of the affairs of such institution at any time that he may make a demand for such examination; or wilful failure, or refusal, on the part of any officer or officers in charge of such bank to pay the reasonable and necessary expenses of such examination; or to pay the reasonable expense of publishing the report of such examination as provided in Section 1 of this Act, shall in either event constitute a misdemeanor punishable by fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not to exceed twelve months; or by both such fine and imprisonment. Each day that such refusal shall continue, shall constitute a separate offense.

Sec. 3. Every banking corporation of the kind described in Section 1 of this Act which shall wilfully fail or refuse to submit itself to the inspection of the Commissioner of Banking and Insurance of this State, or of any authorized representative designated by him as provided for in Section 1 of this Act, shall be liable to a penalty of five hundred dollars for each day such refusal shall continue to be recovered in any court of competent jurisdiction upon the suit of the State of Texas, brought by the county or district attorney of the county where such bank is situated, and such penalty when recovered, shall be paid into the State Treasury to the credit of the general revenue fund. Such penalty shall be additional to the penal provision of this Act.

Sec. 4. Whenever an investigation of any bank operating under charter granted by the Legislature of this State prior to the adoption of the Constitution of 1876, shall satisfy the Commissioner of Banking and Insurance that said bank is in an insolvent condition, or verging upon insolvency, or if

in his judgment the methods of business pursued by such corporation, threaten disaster to the depositors of such bank, it shall be his duty to make a written report of his opinion with regard to said matters to the Attorney General of this State, accompanied by such facts and information as he may have obtained leading him to such conclusion, and it shall thereupon be the duty of the Attorney General to institute or cause to be instituted such proceedings as he may deem necessary, for the protection of the depositors, or of the public doing business with such institution, by securing the appointment of a receiver thereof in any court of competent jurisdiction, or by enjoining the said bank from further continuance of its business, and causing the liquidation of such bank, and it shall also be the duty of the Attorney General to pray for, demand, and secure the forfeiture of so much of the said charter as seeks to confer banking and discounting privileges; and a perpetual injunction shall be granted by the court against any persons in future seeking to operate a bank thereunder.

Sec. 5. It shall be unlawful for any person or association of persons now engaged in the business of private banking in this State to employ any part of the funds of the depositors of said bank in speculative oil ventures, or other similar enterprises owned or promoted by said bank, or the officers, or managers thereof.

It shall also be unlawful for such private banker, or bankers, to solicit by advertisement in the newspapers or otherwise, the accounts of depositors for the purpose of investing the same in such speculative enterprises owned or promoted by them; provided, however, that this section shall not apply to investments in or loans upon agricultural or commercial products, possessing a market value, or other like commodities.

Sec. 6. Violation of any one of the provisions of Section 5 of this Act shall constitute a misdemeanor, punishable by fine of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the county jail of not less than thirty (30) days, nor more than twelve (12) months, or by both such fine and imprisonment. Each day the violation shall continue shall constitute a separate offense.

Sec. 7. From and after the passage of this Act, no person, partnership, or association of individuals shall be permitted to establish, open up, or operate any new private banking business in this State; but this provision shall not be held to interfere with the right of any person, partnership, or association of individuals now engaged in the private banking business in this State, to continue to operate the said business, through themselves or their vendees, administrators or executors.

Sec. 8. Violation of this provision of Section 7 of this Act by any person, shall constitute a misdemeanor, punishable by fine of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the county jail not less than thirty (30) days, nor more than twelve (12) months, or by both such fine and imprisonment. Each day said business is operated shall constitute a separate offense.

Sec. 9. If any paragraph or section or provision of this Act shall be held invalid, such invalidity shall not affect any other portions of this Act not subject thereto.

Sec. 10. All laws in conflict herewith are hereby repealed.

Sec. 11. The fact that the business of banking is one of wide public interest, and that the depositors in the banks dealt with in this Act are not now adequately protected by law, and that great mischiefs are likely to result unless this Act shall be put into immediate operation, create an emergency and an imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and said rule is hereby suspended and this Act shall take effect from and after its passage, and it is so enacted.

CARLOCK,
DUDLEY.

Senator Carlock moved that S. B. No. 22 be set for a special order for Monday morning.

The motion was lost.

Senator Carlock moved to reconsider the vote by which the Senate refused to make the bill a special order for Monday.

The motion was lost.

House Joint Resolution No. 8.

The Chair laid before the Senate on third reading,

H. J. R. No. 8, proposing an amend-

ment to Section 50, Article 3. of the Constitution of the State of Texas, so that hereafter the Legislature shall have power to give or lend the credit of the State for the purchase and improvement of rural and urban homes.

The resolution was read third time and Senator Fairchild moved that the resolution be laid on the table subject to call.

The motion was lost.

Action recurred on the final passage of the resolution and the Senate refused to pass same by the following vote, a two-thirds vote being necessary:

Yeas—9.

Cousins.	Suiter.
Davidson.	Watts.
Floyd.	Witt.
McNealus.	Woods.
Rogers.	

Nays—14.

Bailey.	Harp.
Baugh.	Lewis.
Bledsoe.	Murphy.
Carlock.	Page.
Dudley.	Parr.
Fairchild.	Richards.
Hall.	Wood.

Absent.

Buchanan.	Russell.
Darwin.	

Absent—Excused.

Clark.	McMillin.
Dorough.	Williams.
Hertzberg.	

Senator Murphy moved to reconsider the vote by which the Senate refused to pass the resolution and spread the motion to reconsider on the Journal.

Pending discussion. Senator Fairchild made the point of order that the endorsement of the resolution showed that it had been passed to engrossment only by the House, and that it was not properly before the Senate.

The Chair, after examining the records of the House proceedings, overruled the point of order.

Action then recurred on the motion to reconsider the vote by which the Senate refused to pass the resolution, and to spread the motion on the Journal.

Senator Bailey moved to table the motion to reconsider.

The motion to table was lost by the following vote:

Yeas—8.

Bailey.	Hall.
Baugh.	Harp.
Carlock.	Page.
Dudley.	Parr.

Nays—14.

Bledsoe.	Murphy.
Cousins.	Rogers.
Davidson.	Suiter.
Fairchild.	Watts.
Floyd.	Witt.
Lewis.	Wood.
McNealus.	Woods.

Absent.

Buchanan.	Richards.
Darwin.	Russell.

Absent—Excused.

Clark.	McMillin.
Dorough.	Williams.
Hertzberg.	

The motion by Senator Murphy to reconsider the vote by which the Senate refused to adopt the resolution and spread the motion to reconsider on the Journal, was adopted.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 17, 1921.
Lieutenant Governor Lynch Davidson,
President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 134, A bill to be entitled "An Act creating, establishing and providing for the maintenance of a State Tuberculosis Sanatorium for ex-service men, and declaring an emergency."

Respectfully submitted,

N. K. BROWN,
Chief Clerk, House of Representatives.

Senate Bill No. 22.

On motion of Senator Hall, Senate Bill No. 22 was set as a special order for next Wednesday, February 23, following the conclusion of the morning call.

The motion was adopted.

Excused.

On motion of Senator Suiter, Senator Darwin was excused for today on account of sickness.

On motion of Senator Bailey, Senator Buchanan was excused for today and balance of the week on account of business.

Senate Bill No. 142.

The Chair laid before the Senate on second reading,

S. B. No. 142, A bill to be entitled "An Act to amend Title 3 of the Revised Civil Statutes of the State of Texas, 1911, entitled 'Aliens,' relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this State, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holding to facilitate the enforcement of this Act, prescribing penalties for the violation of the provisions hereof, and repealing all Acts or parts inconsistent or in conflict herewith, and declaring an emergency."

The committee report, with committee amendment, was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Dudley, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 142 put on its third reading and final passage by the following vote:

Yeas—22.

Bailey.	McNealus.
Baugh.	Murphy.
Bledsoe.	Page.
Carlock.	Parr.
Cousins.	Richards.
Davidson.	Rogers.
Dudley.	Suiter.
Fairchild.	Watts.
Floyd.	Witt.
Harp.	Wood.
Lewis.	Woods.

Absent.

Hall.	Russell.
-------	----------

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Darwin.	Williams.
Dorough.	

Here Senator Witt moved that the executive session be postponed until 12:20 o'clock p. m. today.

The motion was adopted.

The Chair here laid before the Senate on third reading, Senate Bill No. 142, and the bill was read third time.

Pending.

Senate Bill No. 237.

By unanimous consent, Senator Witt called up, and the Chair laid before the Senate, on second reading,

S. B. No. 237, A bill to be entitled "An Act to amend Article 788 of the Code of Criminal Procedure of this State, adopted in 1911, by providing that all persons are competent to testify in criminal actions, except insane persons who are in the insane condition of mind at the time when they are offered as witnesses, or who were in that condition when the events happened of which they are called to testify; children or other persons, who, after being examined by the court, appear not to possess sufficient intellect to relate transactions with respect to which they are interrogated, or who do not understand the obligation of an oath; and also all persons who have been or may be convicted of a felony in this State or in any other jurisdiction, unless such conviction has been legally set aside or unless the convict has been legally pardoned for the crime of which he was convicted, or, unless the right to testify has been restored to the convict without the grant of a pardon in other respects; but provided that no person who has been convicted of a crime of perjury or false swearing, and whose conviction has not been legally set aside, shall have his competency as a witness restored by pardon, or by the action of the Governor or other pardoning power granting to the convict the right to testify, unless such pardon or restoration of the right to testify by its terms specifically restores his competency to testify in a court of justice; also providing that the Governor of the State shall have full power and authority to restore to the convict the right to testify in all courts of justice by proclamation issued for such purpose, without in any way limiting or annulling any portion of the judg-

ment, decree, sentence or punishment of such convict, and declaring an emergency."

Pending.

Executive Session.

The Chair here announced that the hour, 12 o'clock noon, had arrived which time had been designated as the hour for the Senate to sit in executive session for the purpose of considering the appointment by the Governor.

In executive session the following confirmation of appointment by the Governor was reported to the Journal Clerk by the Secretary.

To be Judge of the 40th Judicial District, W. L. Harding.

In the Senate.

Recess.

On motion of Senator Hall, the Senate recessed until 3 o'clock today.

After Recess.

The Senate was called to order at 3 o'clock by Lieutenant Governor Davidson.

Senate Bill No. 237.

Action recurred on the pending business, Senate Bill No. 237, and

Senator Murphy offered the following amendment:

Amend Senate Bill No. 237, by striking out subdivision 3, and the last paragraph of Section No. 1.

The amendment was lost.

The committee report, that the bill be not printed, was adopted.

Senator Murphy offered the following amendment, which was read and adopted.

Amend Senate Bill No. 237. Section 3, by adding at the end of said Section the following:

"Provided that the fact of such witness having been previously convicted of a felony may be introduced in evidence in any case in which such convict may testify as a witness, and such fact may be considered by the court or jury before whom such case may be on trial in determining

the weight to be given to testimony of such witness."

The bill having been read second time was passed to engrossment, by the following vote:

Yeas—15.

Baugh.	Lewis.
Bledsoe.	Page.
Carlock.	Rogers.
Cousins.	Suiter.
Davidson.	Witt.
Dudley.	Wood.
Floyd.	Woods.
Harp.	

Nays—7.

Bailey.	Parr.
Fairchild.	Richards.
Hall.	Watts.
Murphy.	

Present—Not Voting.

McNealus.

Absent.

Russell.

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Darwin.	Williams.
Lorcugh.	

Senator Witt moved that the constitutional rule requiring bills to be read on three several days be suspended and Senate Bill No. 237 be put on its third reading and final passage.

The motion was lost by the following vote, a four-fifth vote being necessary:

Yeas—15.

Baugh.	Lewis.
Bledsoe.	Page.
Carlock.	Rogers.
Cousins.	Suiter.
Davidson.	Witt.
Dudley.	Wood.
Floyd.	Woods.
Harp.	

Nays—7.

Bailey.	Parr.
Fairchild.	Richards.
Hall.	Watts.
Murphy.	

Present—Not Voting.

McNealus.

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Darwin.	Russell.
Dorough.	Williams.

Executive Session—Time Set For.

Senator Bailey moved that the Senate sit in executive session today at 5 o'clock p. m. to consider appointments by the Governor.

Message From the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has granted the request of the Senate, and Senate Bill No. 70 is herewith returned for further consideration.

Respectfully submitted,
N. K. BROWN,
Chief Clerk House of Representatives.

Senate Bill No. 142.

Action here recurred on Senate Bill No. 142, pending from this morning session, the constitutional rule having been suspended.

The Chair laid before the Senate on third reading, Senate Bill No. 142.

The bill was read third time and passed finally.

Senate Bill No. 119.

Senator Murphy moved to recall from the House, Senate Bill No. 119, for further consideration.

The motion was lost.

Senator Richards moved to reconsider the vote by which the Senate refused to adopt the motion to recall Senate Bill No. 119 from the House.

The motion to reconsider was adopted.

The motion to recall the bill from the House was adopted.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 128, A bill to be entitled "An Act to abolish the office of Dairy and Food Commissioner of this State, and conferring the authority, powers, duties, functions, rights and liabilities of said Commissioner upon the State Health Officer of the State, abolishing the Dairy and Food Department of this State and providing that the duties and functions of said department shall hereafter vest in the State Health Officer of this State, making available to the State Health Officer all appropriations heretofore made for Dairy and Food Commissioner or the Dairy and Food Department, or the Pure Food and Drug Department of this State, to be used by said State Health Officer in the performance and exercise of the duties, authority, powers and functions herein transferred; authorizing the State Health Officer to dispense with any employe not needed after the consolidation herein authorized, and rearrange the work and duties of the office to avoid duplication of work, and declaring an emergency."

Respectfully submitted,
N. K. BROWN,
Chief Clerk House of Representatives.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House grants the request of the Senate for the return of Senate Bill No. 119.

Respectfully submitted,
N. K. BROWN,
Chief Clerk House of Representatives.

Senate Bill No. 136.

Action here recurred on Senate Bill No. 136, pending from yesterday.

(See Proceedings from yesterday.)
Senator Rogers here withdrew his

motion to adopt the majority report. Action then recurred on the motion to adopt the minority, favorable, committee report, and the same was adopted.

Senator Rogers offered the following amendment:

Amend Senate Bill No. 136, by striking out the words "theft of an automobile" wherever they occur in the bill.

The amendment was read and on motion of Senator Witt was tabled.

Senator Witt offered the following amendment:

Amend Senate Bill No. 136, page 1, line 31, by striking out the word "three," and inserting the word "five."

Senator Hall offered the following amendment:

Amend Senate Bill No. 136, by striking out the words "at least 3 days before date on which the trial begins," on lines 31 and 32, page 1, and insert in lieu thereof "before the trial begins."

Senator Rogers moved to table the substitute amendment, which motion to table was lost.

The substitute for the amendment was adopted, and

The amendment, as substituted, was then adopted by the following vote:

Yeas—14.

Bailey.	Hall.
Baugh.	Harp.
Bledsoe.	Murphy.
Cousins.	Parr.
Darwin.	Richards.
Davidson.	Watts.
Fairchild.	Woods.

Nays—10.

Carlock.	Page.
Dudley.	Rogers.
Floyd.	Suiter.
Lewis.	Witt.
McNealus.	Wood.

Absent.

Russell.

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Dorough.	Williams.

Senator Suiter offered the following amendment:

30—Senate.

Amend Senate Bill No. 136, page 2, line 6, by inserting after the word "witnesses" the following: "one of whom shall have known the defendant personally for at least one year prior to the date of indictment."

Executive Session.

The Chair announced that the hour, 5 o'clock p. m. had arrived, which hour had previously been designated for the Senate to sit in executive session for the purpose of acting on appointments by the Governor.

The Senate accordingly retired to executive session.

In executive session the following confirmation was reported to the Journal Clerk:

To be Assistant Attorney General:
R. H. Hamilton.

In the Senate.

Senate Bill No. 119.

Senator Murphy moved to reconsider the vote by which the Senate, on yesterday, passed Senate Bill No. 119.

The motion to reconsider was adopted.

Senator Murphy moved that the bill be laid on the table subject to call.

House Bill No. 34.

Senator Darwin here moved to recall House Bill No. 34 from the House for further consideration, and to reconsider the vote by which the Senate, on yesterday, refused to pass same.

The motion was adopted.

Senator Darwin moved that the bill lie on the table subject to call.

Senate Bill No. 136.

Action here recurred on the pending business, Senate Bill No. 136, the question being on the amendment by Senator Suiter.

The amendment was adopted.

Senator Bailey offered the following amendment:

Amend Senate Bill No. 136, by striking out the enacting clause.

The amendment was laid on the table pending perfective amendments.

Senator Richards offered the following amendment:

Amend Senate Bill No. 136, page 2, line 6, by striking out the word "three," and inserting in lieu thereof "one."

On motion of Senator McNealus, the amendment was tabled.

Senator Woods offered the following amendment:

Amend Senate Bill No. 136, by adding thereto the following as Section 9, and renumber the last section, being the emergency clause, so that it will be Section 10:

Sec. 9. It shall be the duty of each county and district attorney prosecuting cases in the district court, immediately after the adjournment of court, to transmit to the Attorney General a list of all persons convicted of felonies during the term, specifying the offense charged, the date of conviction, the punishment assessed, and whether suspension of sentence was applied for in any case and whether or not same be granted. He shall also in a separate list, give names, ages, offense charged, date of conviction, punishment assessed and suspension of sentence in any such felony. This list shall also be accompanied by such description of defendant as shall be ordinarily sufficient to identify him.

It shall be the duty of the Attorney General to record such information thus received in a record especially provided for that purpose, and to furnish to any officer of the State, upon application without charge, a certified copy of any information so recorded. A certified copy of any information without other authentication than the certificate of the Attorney General's department shall be received in evidence in any case where the facts therein recited are relevant.

On motion of Senator McNealus, the amendment was tabled.

Senator Harp offered the following amendment, which was read and adopted:

Amend Senate Bill No. 136, by adding after the word "murder" in line 26, page 1, the word "rape."

Senator Richards offered the following amendment:

Amend Senate Bill No. 136, page 2, line 6, by striking out the word

"three" and inserting in lieu thereof the word "two."

On motion of Senator Bledsoe the amendment was tabled.

Senator Murphy offered the following amendment:

Amend Senate Bill No. 136, by adding after the word "penitentiary," page 2, line 25, the following: "when the defendant has no counsel it shall be the duty of the court to inform the defendant of his right to make such application, and the court shall appoint counsel to prepare and present same if desired by defendant."

Senator Richards offered the following substitute for the amendment:

Amend Senate Bill No. 136, page 2, by adding after the word "penitentiary," in line 25, the following: "provided in all cases in which a defendant may be entitled to a suspended sentence the court, if the defendant has no attorney, must appoint such defendant an attorney at least three days before the defendant is brought to trial."

The substitute for the amendment was tabled.

The amendment by Senator Murphy was adopted.

Senator Fairchild here moved to reconsider the vote by which the Senate tabled the amendment relating "to eliminate the theft of an automobile."

On motion of Senator Bledsoe the motion to reconsider was tabled.

Action recurred on the amendment to strike out the enacting clause and the same was lost by the following vote:

Yeas—5.

Bailey.	Murphy.
Fairchild.	Parr.
Hall.	

Nays—15.

Baugh.	Lewis.
Bledsoe.	McNealus.
Cousins.	Suiter.
Darwin.	Watts.
Davidson.	Witt.
Dudley.	Wood.
Floyd.	Woods.
Harp.	

Absent.

Carlock.	Russell.
Rogers.	

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Dorough.	Williams.

(Pair Recorded.)

Senator Richards (present), who would vote "yea"; Senator Page (absent), who would vote "nay."

The bill was passed to engrossment.

House Joint Resolution No. 9.

Senator Richards moved that H. J. R. No. 9 be withdrawn from the Committee on Judicial Districts and be referred to Committee on Constitutional Amendments.

The motion was adopted.

Senate Bill No. 136.

On motion of Senator McNealus, the constitutional rule requiring bills to be read on three several days was suspended and Senate Bill No. 136 put on its third reading and final passage by the following vote:

Yeas—22.

Bailey.	Harp.
Baugh.	Lewis.
Bledsoe.	McNealus.
Carlock.	Parr.
Cousins.	Murphy.
Darwin.	Richards.
Davidson.	Suiter.
Dudley.	Watts.
Fairchild.	Witt.
Floyd.	Wood.
Hall.	Woods.

Absent.

Page.	Russell.
Rogers.	

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Dorough.	Williams.

The bill was read third time and passed finally.

Senator McNealus moved to reconsider the vote by which Senate Bill No. 136 was passed and table the motion to reconsider.

The motion prevailed.

Bills Signed.

The Chair, Lieutenant Governor Davidson, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 134, A bill to be entitled "An Act creating, establishing and providing for the maintenance of a State Tuberculosis Sanatorium for ex-service men, and declaring an emergency."

H. B. No. 338, A bill to be entitled "An Act creating and incorporating the Lyford Independent School District, in Cameron County, Texas, etc."

H. B. No. 82, A bill to be entitled "An Act to repeal Section 8, of Chapter 4, of the Local and Special Laws, passed at the Third Called Session of the Thirty-fifth Legislature, which was 'An Act to create a more efficient road law for Cass County,' etc."

H. B. No. 277, A bill to be entitled "An Act creating the Tuscola Independent School District, in Taylor County, etc."

H. B. No. 31, A bill to be entitled "An Act making it a misdemeanor for any person to ask, solicit, demand, charge or receipt, directly or indirectly, from any other person, corporate or otherwise, any money, reward, favor, benefit, or other thing of value, or the promise of either as a consideration or inducement for producing or effecting, or with the view, purpose or intent that such person may, can, or will, or may, can or will seek or undertake to, procure or effect any preference in the receipt, carriage, transportation, movement, placing, storing, handling, caring for or delivery of any freight, commodity, or article, or any railroad car or cars, by any common carrier."

H. B. No. 67, A bill to be entitled "An Act creating a special road law for Coryell County, Texas, etc."

H. B. No. 62, A bill to be entitled "An Act authorizing the Commissioners' Court of Texas to fix the compensation of the Tax Assessors of their respective counties for assessing and making the tax rolls of that part of any improvement district lying within the city limits of cities having a population of more than 75,000 inhabitants, at a sum not to exceed the amount allowed by general law for like services in assessing State and county taxes, and declaring an emergency."

Adjournment.

On motion of Senator Hall the Senate, at 5:50 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.**Petitions.**

Senator McNealus offered and had read a resolution from Lion's Religio-Literary Society, Dallas, endorsing Governor Neff's recommendations to the Legislature.

This was referred to Committee on State Affairs.

Committee Reports.

Committee Room,

Austin, Texas, Feb. 17, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have carefully compared S. B. No. 134, and find the same correctly enrolled and have this day, at 3:30 o'clock p. m., presented the same to the Governor for his approval.

ROGERS, Vice Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 225, A bill to be entitled "An Act to amend Article 6401 of the Revised Civil Statutes of 1911, providing for the trial and investigation of matters in suits brought by quo warranto proceedings, and providing for appeals in such cases, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 217, A bill to be entitled "An Act amending Articles 3297 and 3300 of Chapter 7 of Title 52 of the Revised Civil Statutes of the State of Texas, and adding thereto Article 3300a and Article 3300b, so as to pro-

vide that temporary administrators appointed may be made permanent administrators, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 191, A bill to be entitled "An Act to validate the authentication and acknowledgment of conveyances and other instruments where the notarial seal used by the officer taking the acknowledgment did not conform to the law in force when the acknowledgment was taken, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 258, A bill to be entitled "An Act to make it discretionary on the part of the trial judge with regard to submitting a case to the jury on special issues of fact in all cases tried before a jury in the District or County Courts of this State; and provided that where the parties litigant agree that the case shall be submitted on special issues, it shall be due to the court to so submit said case; and further, provided where the case is submitted on special issues, it shall be proper for the attorneys to explain to the jury the effect of the findings thereon; repealing all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil

Jurisprudence, to whom was referred S. B. No. 100, A bill to be entitled "An Act to amend Article 6645, Title 115, Chapter 14, of the Revised Statutes of 1911 of the State of Texas, so as to abolish the defense of assumed risk as a bar to recovery in any suit against any corporation, receiver or person operating any railroad, street railway or interurban railway in this State for damages for death or for personal injuries to employes thereof, and further defining and regulating the doctrine of contributory negligence in such cases, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following committee amendment:

Amend S. B. No. 100 by striking out the words "person employed by such corporation, receiver or person," at the end of the first paragraph of the proposed Article 6645 and insert therein the following: "Employe or servant of such person, corporation or receiver; it being contemplated that while the employe does assume the ordinary risk incident to his employment he does not assume the risk resulting from any negligence on the part of his employer, though known to him."

BAILEY, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 11, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, the Committee on Privileges and Elections, to whom was referred the contest filed by Reno Eickenroht, contesting the election of C. F. Richards as Senator from the Twenty-first Senatorial District of Texas, having had the same under consideration and after having fully considered the said contest and the demurrer and exceptions filed thereto by the contestee, and having heard both parties thereto, adopted a resolution that same be sustained, and I am directed to return said contest and all papers pertaining thereto to the Senate of Texas with the recommendation that said demurrer and exceptions be in all things sustained, and that said contest be dismissed.

Respectfully submitted,
COUSINS, Vice Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 11, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: I, a minority of your Committee on Privileges and Elections, to whom was referred the contest filed by Reno Eickenroht, contestant, vs. C. F. Richards, contestee, from the Twenty-first Senatorial District of Texas, have had the same under consideration, and after having heard and considered the demurrers and exceptions filed thereto by the contestee, I beg leave to report same back to the Senate with the recommendation that said demurrers and exceptions so filed, heard and considered be, in all things, overruled, and that the contestant be instructed to proceed with his case by the introduction of evidence in support of his petition and that the committee proceed to hear all of said evidence by both parties.

I believe that it is unfair to the Democrats of Texas and to the voters of the Twenty-first Senatorial District to deny to them the right to have the names of the candidates for the Senate from their district properly and legally printed upon all the ballots used at the general election.

Respectfully submitted,
MURPHY.

Senate Chamber,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 237 carefully compared and find same to be correctly engrossed.

HARP, Chairman.

Senate Chamber,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 189 carefully compared and find same to be correctly engrossed.

HARP, Chairman.

TWENTY-NINTH DAY.

Senate Chamber,
Austin, Texas,
Friday, Feb. 18, 1921.
The Senate met at 10 o'clock a. m. pursuant to adjournment, and was